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UNITED STATES DISTRICT COURT

DISTRICT OF OREGON

PORTLAND DIVISION

DON'T SHOOT PORTLAND, et al.

Plaintiffs

v.

CITY OF PORTLAND, a municipal  
corporation,

Defendant.

Case No. 3:20-cv-00917-HZ

DECLARATION OF MADELINE KAY IN  
SUPPORT OF PLAINTIFF'S MOTION FOR  
CLASS CERTIFICATION  
ORAL ARGUMENT REQUESTED

I, Madeline Kay, declare as follows pursuant to 28 USC § 1746:

1. I have personal knowledge of the information contained in this declaration. If called upon to do so, I could and would competently testify regarding the matters set forth herein.
  2. I have been retained by plaintiffs' attorneys in this case as an investigator.
  3. I have personally helped draft many Tort Claim Notices (TCNs) filed with the City of Portland, resulting from Portland Police Bureau use of force for crowd control in 2020.
  4. At the request of Viktoria Lo, I have personally reviewed the tort claim notices, lawsuits, and supporting documentation provided by the Defendants in discovery in this matter. My understanding is that the collection of documents I reviewed was *not* a total count of all of the TCNs and lawsuits from 2020. The documents I reviewed were provided in response to discovery requests for a limited number of dates.
  5. In this case, my understanding is that I reviewed TCNs and lawsuits related to the following dates in 2020: May 29-June 2, June 5-6, June 9-10, June 12-13, June 28, June 30, July 4, August 4, August 10, August 13, August 15-16, August 22-23, and September 5. Because these dates are not a comprehensive list of dates on which PPB used crowd control weapons, the
- Page 2 DECLARATION OF MADELINE KAY IN SUPPORT OF PLAINTIFF'S MOTION FOR CLASS CERTIFICATION

numbers are likely an undercount or lower than the actual totals of TCNs and lawsuits filed in response to the PPB's use of crowd control in 2020. In fact, I know that I personally drafted a few dozen TCNs from PPB use of force during crowd control in 2020 that were not included in the discovered set of documents I reviewed for this case.

6. Several individuals who submitted TCNs or filed lawsuits had force used against them on multiple occasions or had various types of force used against them, or both. The following totals stand for the number of people who filed TCNs or lawsuits, from the dates above, claiming that they experienced each type of force. When someone reported experiencing the same type of force on multiple occasions, that person is counted only once for that category of force. For example, if a person experienced the use of teargas on many different nights, that person is only counted one time under the teargas section below.

7. If the individual has a signed declaration on file in this lawsuit, their TCN was disregarded for purposes of these totals.

8. The following number of individuals indicate in their TCNs that they were subjected to tear gas and rubber ball distraction devices by the PPB while attempting to comply with the orders of the police or engaged in passive resistance: Total Number: 17.

a. Tear gas: 14 (number of people) *See* Exhibit 1, Exhibit 2, Exhibit 3, Exhibit 4, Exhibit 5, Exhibit 6, Exhibit 7, Exhibit 8, Exhibit 9, Exhibit 10, Exhibit 11, Exhibit 12, Exhibit 15, Exhibit 25.

b. Rubber ball distraction devices: 3 (number of people) *See* Exhibit 12, Exhibit 13, Exhibit 14.

9. The following number of individuals indicate in their TCNs that they were subjected to "less lethal weapons" (FN303 launchers, 40 mm launchers, batons, and aerosol restraints) by the PPB at protests, while engaging in passive resistance to the orders of police at the time force was

used or attempting to comply with the orders of the police: Total Number: 15.

- a. FN303s: 2 (number of people) *See* Exhibit 15, Exhibit 16.
  - b. 40 MMs: 6 (number of people) *See* Exhibit 15, Exhibit 17, Exhibit 18, Exhibit 19, Exhibit 20.
  - c. Baton strikes: 5 (number of people) *See* Exhibit 21, Exhibit 22, Exhibit 23, Exhibit 24, Exhibit 25.
  - d. Aerosol restraints: 2 (number of people) *See* Exhibit 24, Exhibit 26.
10. I have reviewed a TCN by Dawn Redlich, attached hereto as Exhibit 1.
  11. I have reviewed a TCN by Dustin Brandon Ferreira, attached hereto as Exhibit 2.
  12. I have reviewed a TCN by Fahiyim “Mac Smiff” Acuay, attached hereto as Exhibit 3.
  13. I have reviewed a TCN by Gerald Lentino, attached hereto as Exhibit 4.
  14. I have reviewed a TCN filed by Hannah Helm, attached hereto as Exhibit 5.
  15. I have reviewed a TCN filed by Helen Petticord, attached hereto as Exhibit 6.
  16. I have reviewed a TCN filed by Jessica Shifflett, attached hereto as Exhibit 7.
  17. I have reviewed a TCN filed by Larston Petticord, attached hereto as Exhibit 8.
  18. I have reviewed a TCN filed by Paul Frazier, attached hereto as Exhibit 9.
  19. I have reviewed a TCN filed by Timur Ender, attached hereto as Exhibit 10.
  20. I have reviewed a TCN filed by Valerie Arkell, attached hereto as Exhibit 11.
  21. I have reviewed a complaint filed by Robert Evans, Bea Lake, Sadie Oliver-Grey, attached hereto as Exhibit 12.
  22. I have reviewed a TCN filed by Amy Johnson, attached hereto as Exhibit 13.
  23. I have reviewed a complaint filed by Julia Leggett, attached hereto as Exhibit 14.
  24. I have reviewed TCNs filed by me, Madeline Kay, attached hereto as Exhibit 15.
  25. I have reviewed a TCN filed by Kelcie Ulmer, attached hereto as Exhibit 16.

26. I have reviewed a complaint filed by Alexandra Montgomery, attached as Exhibit 17.
27. I have reviewed a complaint filed by Dominique Brouhard, attached hereto as Exhibit 18.
28. I have reviewed a TCN filed by Rose Mayer, attached hereto as Exhibit 19.
29. I have reviewed a complaint filed by Lydia Fuller, attached hereto as Exhibit 20.
30. I have reviewed a TCN filed by Damesha Smith, attached hereto as Exhibit 21.
31. I have reviewed a TCN filed by Logan Colwell, attached hereto as Exhibit 22.
32. I have reviewed a TCN filed by Theodore Timmons, which I drafted myself for attorney  
Alan Kessler, attached hereto as Exhibit 24.
33. I have reviewed a TCN filed by Elijah Warren, attached hereto as Exhibit 25.
34. I have reviewed a TCN filed by Evan Henshaw-Plath, attached hereto as Exhibit 26.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on January 11, 2022.

*Madeline Kay*

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MADELINE KAY